

# MINORITY BUSINESS ENTERPRISE PROGRAM

(Revised Edition, May 1980)


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**Metropolitan Transportation Commission**



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MINORITY BUSINESS ENTERPRISE PROGRAM

(REVISED, June 1980)

Submitted To

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MINORITY BUSINESS ENTERPRISE PROGRAM (MBE)

POLICY STATEMENT

It is the policy of the Metropolitan Transportation Commission (MTC) to provide Minority Business Enterprises (MBE) the opportunity to participate in federally assisted programs to the maximum extent possible. The Commission's MBE program is designed to provide guidelines for participation of minority- and female-owned businesses as defined in 49 Code of the Federal Register, Part 23; and for providing to the extent possible that discrimination on the basis of race, color, national origin or sex does not occur in the award and performance of MTC contracts.

The following provisions form the basis for MTC to provide minorities and females an opportunity for contracting for supplies and services.

Records shall be maintained to:

- (1) Document procedures followed to ensure MBE participation
- (2) Monitor compliance with program policy;
- (3) Document efforts to attract MBEs;
- (4) Record contract awards to MBEs;
- (5) Maintain an updated minority and female consultant file and source list for procurement of supplies and services;
- (6) Maintain an ongoing record system to measure progress of the MBE program;

MTC will continue to monitor the contract performance of each prime contractor or subcontractor with 50 employees or more, and a contract of \$50,000 or more to ensure that each has or is required to develop a written Affirmative Action plan for each of its establishments.





## I. INTRODUCTION

Heretofore, MTC's Minority Business Enterprise Program, adopted May 5, 1978, as amended, served as the vehicle through which minority contractors were assured equitable treatment in the awarding of MTC contract's.

In general, MTC has maintained a file of minority consultants representing firms throughout the state of California and outside of the state as well. MTC has administered procedures to provide minority contractors participation as prime contractors or subcontractors, in teams or as joint ventures with majority firms.

The Minority Business Enterprise Program will attempt to provide more specific guidelines and procedures to MTC staff who are involved in developing contracts for procurement as well as provide more definitive requirements for MTC contractors relative to MBE obligations. The provisions of this program shall form the basis for MTC continuing to extend a good faith effort to ensure that Minority Business Enterprises have a equal opportunity to participate in the agency's contracting activities.

## References

1. Title VI of the Civil Rights Act of 1964, 42 U.S.C., 2000d-1, et seq.;
2. Section 12(f) of the Urban Mass Transportation Act of 1964 as amended, 49 U.S.C., 1608(f);
3. Regulations of the Department of Transportation, 49 C.F.R., Part 21;
4. Regulations of the Department of Transportation, 49 C.F.R., Part 23;
5. Regulations of the Department of Justice, 28 C.F.R., Part 42, Sub-part F;
6. UMTA Interim Minority Business Enterprise Policy and Requirements for Grant Recipients, Circular 1165 (12-30-77).
7. Small Business Act, Section 3.



### MBE Obligation

All project sponsors receiving financial assistance through a Department of Transportation element will ensure that MBEs shall have the maximum opportunity to participate in providing vendor and consultant services. Accordingly, project sponsors must take necessary and reasonable steps to enable MBEs to compete in all contracting activities. Project sponsor shall not discriminate on the basis of race, color, national origin or sex.

### Definitions

1. "Minority means a person who is a citizen or lawful permanent resident of the United States and who is either Black, Hispanic, Asian American, American Indian, Alaskan native or member of other groups, or other individuals found to be, economically and socially disadvantaged by the Small Business Administration under Section 8 (a) of the Small Business Act, as amended." (15 U.S.C. 637 (a))

2. "'Minority business enterprise or 'MBE' means a small business concern, as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one or more minorities or women. This definition applies only to financial assistance programs. For the purposes of this part, owned and controlled means a business: (a) which is at least 51 per cent owned by one or more minorities or women or, in the case of publicly owned business, at least 51 per cent of the stock of which is owned by one or more minorities or women: and (b) whose management and daily business operations are controlled by one or more such individuals." 49 CFR 23; Sec. 23.5

### Responsible Personnel

The following have direct responsibilities for ensuring the fulfillment of MBE Program goals and objectives are:

The Executive Director is responsible and accountable for carrying out the Minority Business Enterprise Program.





The MBE Program Coordinator, appointed by the Executive Director, is responsible for the MBE Program development and administration.

The following are other staff with responsibilities for negotiating, awarding and managing contracts, and for carrying out the goals and objectives of the MBE Program:

The Contracts Officer is responsible for matters relating to contract preparation negotiation and administration.

The General Services Officer performs or supervises the agency's buying process and provides technical advice to departments and committees involved in MTC purchasing activity.

The Section Manager is responsible for the contractor selection process as well as overall supervision, coordination and direction of the contractor's work.

The Section Manager appoints the Project Manager and is responsible for approval of the scope of consultant work, the budget, and related matters.

The Manager of Administrative Services provides operational and managerial direction to the MBE Program.

## II. MBE PROGRAM COORDINATOR

The MTC Affirmative Action Officer shall be designated as Minority Business Enterprise Program Coordinator. The MBE Program Coordinator shall report directly to the Executive Director and shall be responsible for developing MBE Program policies and procedures to implement the federal government's MBE requirements for federally assisted programs.

The MBE Program Coordinator shall work closely with the Contracts Officer, Section Managers, General Services Officer, the Personnel Officer, and any others having responsibilities in the areas relating to the contracting activities of MTC.



Duties of the MBE Program Coordinator may include, but not be limited to, the following:

1. Analyzing and assessing the mechanisms and resources for the establishment of goals to be achieved in the awarding of contracts to MBEs.
2. Developing, monitoring, and evaluating MBE Program goals and objectives.
3. Maintaining and updating MBE Consultant File. Periodically evaluates vendors for supplies and services to assess MBE participation.
4. Verifying status of MBE ownership.
5. Maintaining regular communication with MBEs, providing appropriate assistance and information regarding applicable business opportunities, and appropriate counselling as required.
6. Coordinating with the Contracts Officer and Project Manager Staff to ensure that MBEs are informed of contracting opportunities in sufficient time to prepare pre-qualification statements and subsequent RFPs.
7. Attending pre-bid conferences to explain MBE requirements and respond to questions.
8. Participating in RFP review panels.
9. Reviewing and approving contracts relative to inclusion of provisions of MBE Program requirements and MTC's obligations.
10. Maintaining accurate and up-to-date records demonstrating MBE Program activities and accomplishments.





11. Spot checking, if necessary, contractors' and subcontractors' compliance with MBE commitments during the life of a contract.
12. Developing MTC communications with MBE community economic development agencies and applicable federal and state assistance agencies.
13. Developing special programs to enhance the success of MTC's relationship with the MBE community as the need arises.
14. Providing assistance to contractors in meeting the obligations of the MBE Program, contract goals, and related affirmative action agreements stipulated in the contract.

### III. PERCENTAGE GOALS FOR DOLLAR VALUE OF WORK TO BE AWARDED TO MBEs

MTC awards contracts to consultant contractors to conduct technical and planning studies to assist MTC in carrying out its mission to maintain a Regional Transportation Plan, which serves as a clear statement of transportation policy and planning direction for the San Francisco Bay Area. Consulting contracts can be awarded to individuals, organizations or firms outside of MTC whose expertise and professional experience provide the greatest potential for successful performance of the work required. (See Fig.1)

MTC also purchases supplies and services to support agency work. These purchases involve such things as office supplies and capital office equipment and services such as moving, reproduction, auto fleet maintenance, and office equipment maintenance. (See Figs. 2 & 3)

MTC's goals, as stated, are to be defined as flexible and adaptable levels of MBE participation in the Commission's procurement activities. By no means are these goals to be interpreted as rigid and inflexible quotas; they are to be regarded as targets that can reasonably be obtained by applying good faith efforts to make all aspects of the MBE program work.



## Overall Goal

MTC will establish short-term overall goals for MBEs for consultant and vendor procurement activities. These goals will be updated annually. MTC sets its short-term MBE annual goals for purchases of goods and services with the understanding that its long-term goal is to bring about parity in the Commission's procurement activities for minorities and females. In striving to achieve this long-term objective, MTC commits itself to a strategy comprised of result-oriented steps that will resolutely and incrementally move it toward this long-term objective.

## Contract Goals

All consultant contracts and vendor service purchases will be evaluated for the appropriateness of MBE goals. When appropriate, goals will be established generally--on contracts over \$50,000--utilizing the following criteria: (1) size of the project, (2) the work requirement of the Overall Work Program, (3) past results of MTC efforts to contract with MBEs in specific activities, (4) the overall minority and female population in the Bay Area, which approximates 25 percent for minorities and 50 percent for women,\* and (5) availability of MBEs.

## Goals for Consultant Contract Awards

Consultant contracting activities for FY 80-81 are estimated to cost \$1,097,400. This includes provisions for some ongoing activities. In the past, 10-20% of awarded contracts went to MBEs in FY 76-77 and 12.2% in FY 78-79. Based on the percentage level of MBE participation in past years and on the other criteria cited above, MTC is establishing a goal of 19.1% of its consultant dollars to be awarded to minorities and to female consultants. Of this 19.1%, females will receive 5.8% (See Fig. 1). Contracts without goals will contain the following provisions:

1. "Policy. It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have

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\* 1970 Census, San Francisco/Oakland, San Jose SMA; 1978 projections





the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently the MBE requirements of 49 CFR 23 apply to this agreement."

2. "MBE obligation. (i) the recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts."

Public Notification:

At the time of submittal of this program to UMTA, MTC will publish a notice in both minority and majority media throughout the region. Said publication shall:

- . Announce the Commission's overall goals,
- . Inform the public that the goals and a description of how they were set are available for public inspection for a period of 30 days.
- . Advise interested parties that comments will be attached with the submittal to UMTA.

In addition to the foregoing, interested minority and majority contractor organization will receive direct mailing of this complete program with a request that they provide written comments to MTC on this program.



Fig. 1

CONSULTANT AND PROFESSIONAL SERVICES CONTRACTS

The 1980 Overall Work Program (OWP) identifies the following consultant contracts. Approximate MBE goals are indicated per contract and overall.

<u>PROJECT/DESCRIPTION</u>	<u>CONTRACT AMT.</u>	<u>MBE GOAL</u>	
		<u>AMOUNT</u>	<u>PERCENT</u>
901.20 <u>Transit Service Policy</u> <u>Development</u>			
University of California, Berkeley advising MTC on the design of a joint fare program.	\$ 12,500	0	0
902.10 <u>Contingency Planning</u>			
Preparation of the Commuting Alter- natives Manual for the private sector; conducting training classes for the transportation coordinators; preparation of updated promotional materials for the Commuting Alter- natives project.	30,000	0	0
902.30 <u>Air Quality Planning</u>			
Conduct study to examine alternative methods to monitor vehicle-miles- traveled, as required by the Clean Air Act Amendments.	30,000	0	0





Fig. 1 (continued)

<u>PROJECT/DESCRIPTION</u>	<u>CONTRACT AMT.</u>	<u>MBE GOAL</u>	
		<u>AMOUNT</u>	<u>PERCENT</u>
902.50 <u>Airport Planning</u>			
Consultant assistance in the design and conduct of the air passenger survey to be conducted in August 1980.	20,000	0	0
902.60 <u>Seaport Planning</u>			
Consultant assistance to examine transportation and environmental implications of future marine terminal activity at existing military sites.	25,000	\$ 3,750	15
904.10 <u>Travel Survey</u>			
A large data collection effort involving the administration of the Caltrans Travel Survey questionnaire by telephone to approximately 6,000 households may or not be funded, so no RFP effort is started yet.	\$200,000	\$ 45,250	23
904.40 <u>Models</u>			
For expert help on an occasional basis to supplement in-house staff. The first such instance will be a person to help with the Air Quality modelling effort August through December. Not yet contracted	\$ 12,400	0	0



Fig. 1 (continued)

<u>PROJECT/DESCRIPTION</u>	<u>CONTRACT AMT.</u>	<u>MBE GOAL</u>	
		<u>AMOUNT</u>	<u>PERCENT</u>
1001.20 <u>Allocation and Assistance</u>			
Regional Special Needs: to perform a telephone interview/survey of 3,000 social service agencies to determine their transportation program as required by AB120	50,000	0	0
1003.01 <u>Performance Auditing</u>			
Conduct full, detailed performance audit of the GGBHTD & SamTrans properties.	160,000	32,000	20
1003.40 <u>Transit Operators Evaluation</u>			
To develop a regional highway transportation program.	36,000	5,400	15
1003.60 <u>Reserve Requirements and Investment Opportunities</u>			
To determine the adequacy of transit operator's reserves.	35,000	0	0
1101.30 <u>Special Projects</u>			
League of women Voters <u>Monitor</u> An extension of a contract started in 1976 to monitor transportation decision making and publish the monthly <u>Monitor</u> . Contract about to be signed.	42,500	2,500	100



Fig. 1 (continued)

<u>PROJECT/DESCRIPTION</u>	<u>CONTRACT AMT.</u>	<u>MBE GOAL</u>
	<u>AMOUNT</u>	<u>PERCENT</u>
1001.40 <u>Regional Transit Guide</u>		
The pieces of this project are:		
1) Overall design & cover design of new RTG		
2) Updates to the present maps		
3) Creation of new maps of transfer points	<u>20,000</u>	<u>0 0</u>
	\$673,400	\$128,900 19.1
<u>PROFESSIONAL SERVICE CONTRACTS</u>		
Legislative Advocate \$ 17,000		
CPA 20,000		
Legal Services 25,000		
Total	\$ 62,000	
GRAND TOTALS*	<u>\$735,400</u>	<u>\$128,900 17.5</u>
<u>FEMALE CONSULTANTS</u>	\$ 42,500	5.8

\*Includes female consultant figures





## Goals for Purchasing Supplies and Services

During FY 78-79, \$362,500 was spent for vendor-provided services, of which approximately 27.0% went to minorities and women. This high level of MBE participation came as a result of one-time purchases of word processing equipment from a minority vendor. It is not likely that this level of MBE participation can be maintained in FY 80-81.

Estimated expenditures in general operations for FY 80-81 will be approximately \$441,500. MTC's goal will be to award \$50,787 (11.5%) to Minority Business Enterprise (see Figs, 2 & 3). This projection is based on the following criteria: past participation by MBE vendors in providing similar goods and services to MTC; quantity of goods and services needed, availability of minority and female vendors capable of providing needed goods and services on vendor file. MTC will make efforts to increase this percentage during the year.

MTC will continue to use the following methods to increase the participation of MBEs in the procurement of goods and services:

1. Developing the Minority Vendor Source List further.
2. Assuring that each procurement activity is analyzed for appropriate minority representation in the bid process based on availability of suppliers for the services/supplies to be provided.
3. Coordinating purchasing activities with purchasing and procurement professionals and MBE coordinators in the community and in the region.
4. Maintaining contact with such organizations as MBE trade associations, and MBE-funded assistance agencies.
5. Continuing current practice followed by the General Services Officer of consulting state and local MBE directories.



Fig. 2 (continued)  
METROPOLITAN TRANSPORTATION COMMISSION  
General Operations

	AMOUNT	<u>MBE</u>	
		<u>AMOUNT</u>	<u>PERCENT</u>
Staff Office and Conference Facilities	\$195,000	\$0	0
Communications	60,000	0	0
Agency Auto Expense	11,000	4,400	40
Office Equipment Rentals, Repairs and Maintenance	9,000	7,200	80
Mailing and Postage	30,000	0	0
General Office Supplies	26,000	2,600	10
Subscriptions and Library Acquisitions	7,500	0	0
Personnel Recruitment	15,000	6,000	40
General Insurance	26,000	15,600	60
Law Library Upkeep	4,500	0	0
Public Hearings and Official Notices	2,500	500	20
Memberships	2,500	0	0
Office Improvements and Renovations	5,500	550	10
County Auditor Expense	2,000	0	0
Clipping Services	1,200	0	0
Miscellaneous including janitorial, coffee fund, hosting expenses	<u>8,000</u>	<u>400</u>	<u>5</u>
Sub-Total	\$405,700	37,250	9.2
Capital Expenditures			
Sub-Total	35,800	13,536	37.8
GRAND TOTAL	<u>\$441,500</u>	<u>\$50,785</u>	<u>11.5</u>



Fig. 3

METROPOLITAN TRANSPORTATION COMMISSION  
Capital Expenditures

	AMOUNT	MBE AMOUNT	PERCENT
Word Processing Equipment	\$13,000	\$12,350	95
IBM Self-correcting Typewriters (2)	1,920	0	0
ADM-3 Terminal	1,150	0	0
TI Terminal	1,650	0	0
Letter Folding Machine	1,100	0	0
Hole Punch	580	0	0
Postage Scale	1,880	0	0
Flash Attachment for Camera	250	0	0
Slide Viewer/Storage	80	0	0
Dictating Unit and Transcriber	500	0	0
Postage Metering Machine	3,800	0	0
Calculators (9)	1,285	386	30
Filing Cabinets (8)	1,175	235	20
Bookcases (8)	1,275	255	20
Shelving for Storage	750	0	0
Chairs (24)	2,310	0	0
Other Miscellaneous Equipment	<u>3,095</u>	<u>310</u>	<u>10</u>
TOTAL	<u>\$35,800</u>	<u>\$13,536</u>	<u>37.8</u>





#### IV. MBE Set-Asides

The practice of set-asides is not permitted in California. However, MTC may employ sole source designation where there are compelling reasons to do so (e.g., economic, availability factors, etc.). Further, MTC will continue to explore procedures that may be developed to increase the participation of minority and female vendors in the procurement of goods and services. It is, however, anticipated that MTC will be able to meet its goals using the methods set forth in its MBE Program.

#### V. PROCEDURES TO SEEK AFFIRMATIVE ACTION ON MBE PARTICIPATION FROM MAJOR SUPPLIERS AND CONTRACTORS

MTC policy is to solicit proposals from as many qualified and responsible sources as are deemed necessary to ensure full and free competition.

##### 1. Contracts with MBE Goals

Every contract containing MBE Goals shall be evaluated by the MBE Liaison Officer or his/her designee to ascertain bidding contractor's efforts to attain the MBE goals. The award of any project with MBE goals must be concurred with by the MBE Liaison Officer or his/her designee before said contract may be awarded. Should there be disagreement between MTC functional units concerning contractor's efforts to attain contract goals for MBE participation, the matter shall be referred to the Executive Director for determination.

The MBE Liaison Officer shall determine bidder efforts to attain MBE goals in accordance with the following criteria:

- (1) If a bidder is responsive to the RFP and meets or exceeds the contract MBE goals and MTC considers the amount of the bid to be reasonable, such bidder will be the successful bidder. If there is more than one such bidder, the lowest bidder will be the successful bidder.
- (2) If MTC does not consider the amount of the bid of the bidders who meet or exceed the contract MBE goals to be reasonable, or if there are no such bidders, the bidder



with the highest percentage of MBE participation of those bidders who did not meet or exceed the contract MBE goals will be considered. If MTC considers the amount of the bid to be reasonable, such bidder will be the successful bidder. If MTC considers the amount of such bid to be unreasonable, the remaining bids will be considered in descending order of the percentage of MBE participation until MTC considers the amount of a bid under consideration to be reasonable, in which event such bidder will be the successful bidder.

- (3) If MTC does not consider the amount of any of the bidders with MBE participation to be reasonable, MTC may determine any bidder that has demonstrated sufficient reasonable efforts to meet the MBE contract goal to be the successful bidder, provided MTC determines the amount of the bid to be reasonable. If there is more than one such bidder, the lowest bidder will be the successful bidder.

- (4) MTC reserves the right to reject any and all bids.

Bidding contractors who do not indicate the use of MBEs will be required to submit documentation of their efforts to attain the goal. Such documentation shall include the following:

- ( i) Attendance at a pre-bid meeting, if any, scheduled by the recipient to inform MBEs of subcontracting opportunities under a given solicitation;
- ( ii) Advertisement in general circulation media, trade association publications, and minority-focus media for at least 20 days before bids or proposals are due. If 20 days are not available, publication for a shorter reasonable time is acceptable;
- (iii) Written notification to MBEs that their interest in the contract is solicited;



- ( iv)      Efforts made to select portions of the work proposed to be performed by MBEs in order to increase the likelihood of achieving the stated goal;
- ( v)      Efforts to negotiate with MBEs for specific subbids including at a minimum:
  - (A) The names, addresses, and telephone numbers of MBEs that were contacted;
  - (B) A description of the information provided to MBEs regarding the plans and specifications for portions of the work to be performed; and
  - (C) A statement of why additional agreements with MBEs were not reached;
- ( vi)      Concerning each MBE the competitor contacted but rejected as unqualified, or less qualified, the reasons for the competitor's conclusion;
- (vii)      Effort made to assist the MBEs contacted that needed assistance in obtaining bonding or insurance required by the competitor or recipient.

Competitors that fail to meet the MBE goals and fail to demonstrate sufficient reasonable efforts shall not be eligible to be awarded the contract.

Any contracts that contain MBE goals pursuant to this policy will be monitored on an ongoing basis by project personnel during the course of implementation. The MBE Liaison Officer is to be advised immediately of any circumstance wherein contractor compliance with the MBE provision is questionable. The contractor shall submit a final report for each project with MBE goals that includes total payment to





the prime contractor as well as payments the prime contractor has made to MBE subcontractors, vendors and suppliers. If the report indicates the prime contractor has not achieved the project goals, project personnel shall attach an evaluation, in the narrative form, of the reasons for failure to attain the goals and any corrective action that was taken.

Prime contractors will be required to notify the MTC personnel of any situation in which regularly scheduled progress payments are not made to MBE subcontractors, vendors or suppliers.

## II. Contracts Without MBE Goals

MTC's procurement policy and procedure includes requirements for an expression of interest and pre-qualifications system. Excerpts from the procedure describe the process:

### Selecting the Sources:

MTC policy is to solicit proposals from such number of qualified and responsible sources as are deemed necessary to ensure full and free competition. To this end all procurements will be made on a competitive basis to the maximum extent possible.

For all major procurements, MTC uses a pre-qualification system to identify candidates of RFPs. This system consists of two major steps--a pre-qualification information.

The pre-qualification system includes a letter to a potential contractor requesting a capability statement and a pre-qualification information form, which is attached to a cover letter.

Where pre-qualification is not indicated, any system for source selection that is fair and impartial will be used.

Receipt of proposals from at least three firms will most likely create a competitive situation. Where competition is not obtained, resolicitation using other sources will be considered.

MTC policy is designed to ensure that minority business contractors have the maximum practicable opportunity to participate in the performance of contracts. To this end, MTC has established an Affirmative Action Plan and requires all potential contractors to complete an Equal Opportunity certification.



The procedure continues with instructions regarding Affirmative Action requirements and the Equal Opportunity Certification. A copy of MTC's procurement policy is available upon request.

#### AFFIRMATIVE ACTION COMPLIANCE PROGRAMS

MTC requires each prime contractor who has 50 or more employees and a contract of \$50,000 or more, and requires each prime contractor and subcontractor to require each subcontractor who has 50 or more employees and a subcontract of \$50,000 or more, to develop a written affirmative action compliance program for each of its establishments.

In connection with the above, recipient certifies:

#### EQUAL OPPORTUNITY

S/he\_\_\_\_, has not\_\_\_\_, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in Section 301 of Executive Order No. 10925; or the clause contained in Section 201 of Executive Order No. 11114; that s/he has\_\_\_\_, has not\_\_\_\_, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards.

All requests for proposals direct special attention to the Equal Opportunity, Utilization of Minority Business Enterprises, and Utilization of Small Business Concerns clauses which appear in any contract resulting from the proposal.

Also all prime contractors having 50 or more employees and a contract of \$50,000 or more and each subcontractor meeting the above conditions are



required to develop and submit written affirmative action compliance programs for each of its establishments. These are submitted to MTC before contract negotiations are started.

A recent contractor selection process demonstrated the need to provide clearer guidance to MTC project management staff as well as contractors, explaining more explicitly MTC's intention, commitment and obligation to utilize and ensure minority contractor participation in the agency's contracting activities.

Currently, the Request for Proposals (RFP) process includes providing along with the RFP requirements a list of contractors and subcontractors that have been pre-qualified. The list indicates which firms are minority businesses. In addition, and on request, the full Minority Consultant List is made available to prospective consultants following the bidders conference. This procedure has recently fostered some questions among contractors as to whether the list precluded those firms not on the list of pre-qualified contractors from forming teams, being included as subcontractors or from otherwise participating in the bid process. The MBE Program is augmented by the following practices:

1. Include goal requirements for appropriate MBE involvement in prequalifications information.
2. Apply the "Expression of Interest" procedure for all major contractor selection activities.
3. Include with pre-qualifications information the names of contractors interested in prime contracts and subcontracts, and encourage formulation of minority-minority or minority-majority teams and joint ventures to be submitted in the pre-qualifications phase of the process.
4. Encourage the participation of all serious minority contractors prequalifying or expressing interest in contract proposal.





5. Explore the feasibility of expanding advertisement of available contracts, utilizing such sources as MBE assistance agencies, minority community resources, economic development agencies, and other applicable resources.
6. Develop procedures similar to the equal employment applicant flow analysis process a) to record and detail minority contractor participation in the award process, b) to monitor efforts made to involve and select minority contractors, and c) to document reasons for program successes and/or failures.
7. Develop certification process for documenting unavailability of MBEs to participate in specific projects. This procedure will also include provision for responses of "no interest."
8. Develop procedures to include determination of legitimacy of MBEs and joint ventures at the pre-qualifications phase of the process. Such determination shall be based on information provided to MTC by minority firms, minority-minority or minority-majority joint ventures. The information to be gathered will include (in addition to the information on minority consultants already included in Consultant File) detailed information regarding ownership and/or control of the firm or joint venture and such information as deemed necessary to determine legitimacy. The procedure shall be developed in accordance with guidelines specified in 49 CFR Part 23.51-23.87 (3-31-80) and the requirements of the Privacy Act.
9. Include the MBE Program Coordinator on the "Consultant Contract Review/Approval Checklist" to review all consultant contracts.



VI. PROCEDURES TO ENSURE THAT KNOWN MBEs HAVE AN OPPORTUNITY TO COMPETE FOR CONTRACTS AND SUBCONTRACTS

In addition to the programs and procedures to be developed, as outlined previously in this document, MTC, as stated earlier, will continue to extend the commitments of the MBE Program to enhance the participation of the minority business community in the procurement of supplies and services. Minority businesses are currently included in this procurement activity. Goals projected for procurement activity have been explained. The MBE Program Coordinator shall work closely with the General Services Officer to ensure that purchasing and procurement procedures are consistent with program goals and objectives. Assurances shall be developed to include:

1. The List of Minority Vendors will be reviewed and updated.
2. All procurement needs requiring solicitation of bids will continue to include solicitations from MBEs.
3. Specific goals will be developed for MBE participation in the purchasing program, based on procurement budget, availability of MBEs who can provide requisite services, and agency objectives for each target year.

Additional techniques to be developed relative to awarding consultant contracts shall include:

1. Examining prospective awards to determine the feasibility of breaking down larger contracts into smaller awards;
2. Encouraging the formation of joint ventures among MBEs; and
3. Providing more information to contractors at the pre-bid conference regarding utilization of MBEs, and MTC MBE Program requirements.



## VII. MEANS TO OVERCOME BARRIERS TO MBE PROGRAM PARTICIPATION

While considering means for further development of MTC's relationship with MBEs and for enhancing the opportunity of MBE contractors to participate in the agency's contracting activity, discussions have taken place with contract administration and project management staff, as well as with potential recipients and beneficiaries of MTC's MBE Program. Based on these discussions, the following areas shall be examined on a project-by-project basis to determine whether any aspect of the procurement process has been a barrier to MBE participation in contracting activities.

1. Ascertain whether adequate information is being provided the minority business community regarding pending contracts to be awarded.
2. Ascertain whether minority contractors are obtaining adequate information regarding MTC's total procurement procedure, evaluation process, and the specific project that is subject to contract award.
3. Conduct necessary follow-up with minority contractors who have expressed an interest in specific contracts, and attempt to provide the assistance that may be required during the procurement process.
4. Provide personal follow-up after contract award to ensure that minority contractors are receiving the full advantages of required information and the support necessary for successful performance of the contract.

Prior to contract award, ensure that:

1. Project management and other appropriate agency staff are fully aware of the commitments and obligations of the MTC MBE Program as well as federal requirements for MBE participation.



2. Documents such as Project Managers' Handbook, Consultant File, MTC Procurement Procedures and Policies are well documented and kept up-to-date with MBE Program requirements and procedures for ensuring participation of minority business community in MTC contracting activities.
3. Project management and agency staff are fully aware of specific project goals for participation of MBEs.

#### VIII. COMMUNICATIONS PROGRAMS

Clear communication is one of the key elements in effecting the agency's intent and commitment that minority business and professional community shall have an opportunity to participate and compete on an equal basis in contracting and procurement activities. In an industry such as transit and in the field of planning, particularly transportation planning, where the participation of minorities and women has historically been limited, the necessity for providing a forum where direct communication can take place is critical. Therefore, during the action year, MTC shall develop the following programs to enhance communicating to the minority business community its active and continuing commitment to equal opportunity.

1. Develop and present a seminar or workshop to facilitate the exchange of information regarding MTC's MBE Program, procurement requirements, pending contracting activities, and to provide general information about the proposal and procurement process. The planning stages of this program shall consider the feasibility of cooperation with transit operators of the Bay Area in an attempt to focus information provided to MBEs on the full range of opportunities in the region's transportation/transit industry.





2. Continue development of MTC's Consultant File, concentrating activities on follow-up to the file update completed November 1977. Minority consultants not included in that process, or that chose not to respond to MTC's request for update information, shall be the subject of this followup.

#### MBE Advisory Groups

MTC has had two advisory bodies that have provided input into the conduct of the Minority Business Enterprise Program. These groups are the Minority Citizens Advisory Committee (MCAC) and the Commission Affirmative Action Team (CAAT). The MCAC is comprised of members representing all major minority groups in the Bay Area. The CAAT, which has been inactive the past two years, was comprised of MTC employees; and its primary function was to advise MTC on Affirmative Action matters.

In the past, both groups have provided assistance in promoting equal opportunities for minority contractors. MCAC will continue to advise the Commission, and CAAT, when reactivated, will advise the Executive Director through the AAO on issues related to MBE.

#### IX. OPPORTUNITIES FOR MINORITY-OWNED BANKS

MTC shall explore the feasibility of utilizing the services of minority-owned banks.

#### X. MBE DIRECTORY

Throughout the document, reference has been made to MTC's Consultant File. The file is computerized and accessible as:

1. Listing MBEs only.
2. Listing according to specific area of expertise for all consultants, including MBEs.



The file is programmed to provide the following information on all firms:

1. Name, address, telephone numbers.
2. Contact person.
3. Whether minority firm.
4. % Women.
5. Capacity; dollar value; type of firm; number of professional employees.
6. Previous work experience.

The file is updated periodically (an update was completed as recently as November 1977). As indicated under the section describing the Communication Program, work will continue in updating this resource to expand MBE sources.

#### XI. MBE PROGRAM MONITORING AND MAINTENANCE OF RECORDS

The MBE Program Coordinator is responsible for monitoring all aspects of the MBE Program. A comprehensive monitoring and record-keeping system will be developed to assess progress in achieving MBE goals established for the awarding of consultant contracts and in the procurement of supplies and services. The monitoring cycle will assess and reflect:

1. MBE participation on a contract-by-contract basis, and subsequent analysis of actual awards to MBEs, in relation to goals established per contract.
2. Quarterly assessment of MBE participation in MTC contracting activities.
3. Annual assessment of MBE participation, to measure attainment of MBE goals established for the fiscal year.



Additional components of the monitoring program will ensure that:

1. Contractors will be advised to maintain for three years such records as are necessary to determine compliance with their MBE obligations and to be prepared to submit any necessary reports to monitor compliance and progress in achieving contractual MBE obligations and/or agreements.
2. In addition to receiving technical and business evaluations of consultant proposals, the Executive Director will be provided with an evaluation of MBE participation in the award process.
3. Contracts will include MBE goal requirements for the specific contract award, in addition to the General Provisions, Equal Opportunity, Utilization of Minority Business Enterprise and Utilization of Small Business Concerns clauses.

#### XII. MBE UNIFORM REPORTING REQUIREMENTS

The MTC Accounting Section is responsible for fulfilling the reporting requirements outlined in Chapter III, Section D, Guidelines for Project Administration of the External Operating Manual. The MBE Program Coordinator shall work cooperatively with the Accounting Section to coordinate necessary information required to be included in the quarterly report.



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